IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23592 of 2004

Between:

Mr. G.Pullaiah S/o.Sri G.Veeraiah
R/o.Srinivasa Rice Mill Plot No0.E-2, IDA, Town I, Suryapet, District, Nalgonda.

..... PETITIONER

AND

1 The Assistant Engineer, DPE-I Nalgonda, Central Power Distribution Company of A.P Ltd.,
2 The Central Power Distribution Company of A.P. Limited, Red Hills, Hyderabad, rep., by its Managing Director.
3 Asst. Accounts Officer, Electricity Revenue Officer Suryapet, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to grant an order or direction or writ, more so in the nature of writ of Mandamus, declaring the action of the respondent No.1 in refusing to give an opportunity to the petitioner to file his objections against the proceeding bearing No.DE/DPE/Nalgonda/Doc.158/04/D.No.659/ 04 dt.29.10.2004 and his refusal to clarify the issue and also refusal to test the electricity meter installed outside the rice mill belongs to the petitioner and disconnection of electricity to the rice mill of the petitioner is illegal, arbitrary, highhanded and violative of principles of natural justice and article 14 of Constitution of India and consequently to direct the first respondent to conduct testing on the electricity meter installed on the transformer outside the premises of the petitioner and to set aside the order dated: 29.10.2004 as illegal, arbitrary and violative of Principles of natural justice and Article 14 of Constitution of India and reconnect the power supply.

Counsel for the Petitioner: MR.R.RAGHUNANDAN

Counsel for the Respondents: SMT.M.VINOBHA DEVI

The Court, at the stage of admission, made the following:

ORDER:

Petitioner is running a rice mill. It is extended with power supply under S.C.No.8337. It was issued a notice, dated 29.10.2004, whereunder a tentative liability of Rs.57,569/- is fixed upon it towards back billing. It is alleged that the meter, which was fitted to the connection earlier was defective, and the amount pointed in the notice represents the actual consumption charges. Petitioner was required to pay the same. The notice is challenged on several grounds.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

Petitioner is levied a sum of Rs.57,569/- towards back billing amount. It is not in dispute that the petitioner is entitled to submit his explanation to the demand made under the impugned notice. Though no nomenclature is given to the notice, it is nothing but an order of provisional assessment. The actual liability of the petitioner would arise only after an order of final assessment is passed. Time and again, this Court held that no consumer can be held liable to pay any amount, on the strength of provisional assessment alone, nor can he be required to pay any part of it, to ensure continuance of supply.

Learned counsel for the petitioner submits that the meter, which is now fitted to the transformer, has recorded excessive consumption and the same needs to be tested. It is difficult for this Court to give any specific directions, in this regard. He can certainly make such a request in the explanation that may be submitted by him, and the same needs to be considered at the appropriate level.

Hence, the writ petition is disposed of directing that the respondents shall restore the power supply to the petitioner without insisting on payment of any amount covered by notice, dated 29.10.2004. The actual liability of the petitioner would arise only after an order of final assessment is passed by the competent authority, after considering the explanation submitted by the petitioner. Petitioner shall, however, be liable to pay the regular consumption charges. No order as to costs.

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L.NARASIMHA REDDY, J

Dated : 20th December, 2004

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To

1 The Assistant Engineer, DPE-I Nalgonda, Central Power Distribution Company of A.P Ltd.,
2 The Central Power Distribution Company of A.P. Limited, Red Hills, Hyderabad, rep., by its Managing Director.
3 Asst. Accounts Officer, Electricity Revenue Officer Suryapet, Nalgonda District.

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